

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-212304.2

DATE: August 3, 1983

MATTER OF: Artco Contracting, Inc.

DIGEST:

1. Protest based on apparent improprieties in solicitation is dismissed as untimely where filed after bid opening.
2. A bid properly is rejected as nonresponsive where the offered product does not conform to the solicitation's specifications.

Artco Contracting, Inc. protests the award of a Veterans Administration (VA) contract to another bidder under solicitation No. 583-28-83 to replace windows at the VA Medical Center in Indianapolis. Artco contends that the specifications were unduly restrictive of competition, and that Artco's bid should be accepted even though it did not meet certain of the solicitation's specifications. We dismiss the protest in part and summarily deny it in part.

Concerning the propriety of the specifications, our Bid Protest Procedures provide that protests of alleged improprieties in a solicitation that are apparent prior to bid opening must be filed in our Office before that date. 4 C.F.R. § 21.2(b)(1) (1983). In this case, no protest was filed until after the bids had been opened and the contract was awarded. Therefore, this portion of the protest is dismissed.

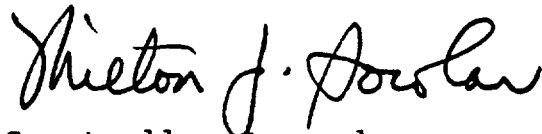
Artco also protests the rejection of its bid. Artco was the low bidder under the solicitation, but its bid was rejected because the windows it offered are not responsive to a number of the solicitation's specifications. Artco argues that its windows nonetheless will meet the VA's needs. We summarily deny this aspect of the protest.

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Since Artco did not file a timely protest against the terms of the solicitation, this Office can only review the question of whether Artco's bid was responsive to the actual requirements of the solicitation. To be responsive, a bid as submitted must be an unequivocal offer to perform or provide the exact thing called for in the solicitation, so that acceptance by the Government will bind the contractor to perform all its material terms and conditions. Pioneer Industrial Products, B-209131, March 22, 1983, 83-1 CPD 286. The record shows that Artco's bid clearly deviated from the specifications, and the bid therefore was properly rejected as nonresponsive.

We dismiss the protest in part and deny it in part.

A handwritten signature in cursive script, reading "Shielton J. Dowler".

Acting Comptroller General
of the United States